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ADP, Inc.*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

BYRD UNDERGROUND, LLC,  
  
Plaintiff  
  
v.  
  
AUTOMATIC DATA PROCESSING, INC.,  
  
Defendant/Third-Party  
Plaintiff/Counter-Defendant  
  
v.  
  
BYRD INSURANCE, INC.  
  
Third-Party Defendant/  
Counter-Claimant

Case No.: 2:22-cv-01329-CDS-NJK

**ORDER GRANTING UNOPPOSED  
MOTION BY ADP FOR EXTENSION OF  
TIME TO FILE ADP’S REPLY BRIEFS  
IN SUPPORT OF ITS RULE 12 (B)(6)  
MOTION TO DISMISS BYRD  
INSURANCE’S COUNTERCLAIMS  
(ECF NO. 45) & ITS RULE 12(F)  
MOTION TO STRIKE BYRD  
INSURANCE’S AFFIRMATIVE  
DEFENSES (ECF NO. 46)**

**(First Request)**

**[ECF No. 49]**

Pursuant to Local Rules IA 6-1, IA 6-2, and LR 7-2, Defendant/Third-Party Plaintiff/Counter-Defendant ADP, Inc. (“ADP”)<sup>1</sup> respectfully requests an extension of time, from July 6, 2023 to July 14, 2023, to file ADP’s two reply briefs in support of:

(1) *ADP’s Rule 12(b)(6) Motion to Dismiss Byrd Insurance’s Counterclaims* (ECF No. 45), and

(2) *ADP’s Rule 12(f) Motion to Strike Byrd Insurance’s Affirmative Defenses* (ECF No. 46).

In accordance with Local Rule IA 6-1(c), ADP states that it filed both subject motions on June 15, 2023.

<sup>1</sup> ADP states that it is incorrectly identified in the case caption as Automatic Data Processing, Inc.

In support of this unopposed motion, ADP states as follows:

### BACKGROUND

1. On April 20, 2023, pursuant to the Court's scheduling order in this case (ECF No. 23), ADP timely filed a Third-Party Complaint against a new party, Byrd Insurance, Inc. ("Byrd Insurance"). *See* ECF No. 34.

2. On May 16, 2023, Byrd Insurance first appeared in the case, by filing its Answer to ADP's Third-Party Complaint and Counterclaims against ADP. *See* ECF No. 39.

3. On May 25, 2023, before ADP was required to answer, move, or otherwise respond to Byrd Insurance's May 16 filing, Byrd Insurance filed an Amended Answer and Counterclaims. *See* ECF No. 43.

4. On June 15, 2023, ADP timely filed two motions to: (1) dismiss Byrd Insurance's Counterclaims under Federal Rule of Civil Procedure 12(b)(6), and (2) strike Byrd Insurance's Affirmative Defenses under Federal Rule of Civil Procedure 12(f). *See* ECF Nos. 45-46.

5. On June 29, 2023, Byrd Insurance filed its opposition briefs to ADP's two motions. *See* ECF Nos. 47-48

6. Pursuant to LR 7-2(b), ADP now has until July 6, 2023 to file two reply briefs in support of its pending Rule 12(b)(6) and Rule 12(f) motions against Byrd Insurance.

### LOCAL RULE IA 6-1(a) STATEMENTS

7. Given the upcoming Fourth of July holiday, which falls in the middle of the week and impacts the availability of counsel and clients, ADP hereby seeks an extension of time until July 14, 2023, to file its two reply briefs in support of its pending Rule 12(b)(6) and Rule 12(f) motions against Byrd Insurance.

8. ADP brings this motion in the interest of justice and not for the purpose of undue delay. This is ADP's first request for extension of the deadline for ADP to file its two reply briefs.

9. In addition, prior to filing this motion, counsel for ADP conferred with counsel for Byrd Insurance, who confirmed that Byrd Insurance does not oppose and agrees to ADP's requested extension.

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WHEREFORE, pursuant Local Rules IA 6-1, IA 6-2, and LR 7-2, ADP respectfully requests an extension of time, from July 6, 2023 to July 14, 2023, to file ADP's two reply briefs in support of: (1) *ADP's Rule 12(b)(6) Motion to Dismiss Byrd Insurance's Counterclaims* (ECF No. 45), and (2) *ADP's Rule 12(f) Motion to Strike Byrd Insurance's Affirmative Defenses* (ECF No. 46).

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Counter-Defendant*

**IT IS SO ORDERED:**

  
UNITED STATES DISTRICT JUDGE

DATED: July 5, 2023